

1 MITCHELL D. GLINER, ESQ.
Nevada Bar #003419
2 3017 West Charleston Blvd., #95
Las Vegas, NV 89102
3 (702) 870-8700
(702) 870-0034 Fax
4 Attorney for Plaintiff

5 UNITED STATES DISTRICT COURT
6 DISTRICT OF NEVADA

7 DOUGLAS KURDZIEL,)

8 Plaintiff,)

9 vs.)

10 CAVALRY PORTFOLIO SERVICES,)
11 LLC,)

12 Defendant.)

No.

JURY DEMANDED

13 COMPLAINT

14 JURISDICTION

15 1. The jurisdiction of this Court attains pursuant to the
16 FDCPA, 15 U.S.C. § 1692k(d), 28 U.S.C. § 1331, 28 U.S.C. § 1332,
17 and the doctrine of supplemental jurisdiction. Venue lies in the
18 Southern Division of the Judicial District of Nevada as Plaintiff's
19 claims arose from acts of the Defendant(s) perpetrated therein.
20

21 PRELIMINARY STATEMENT

22 2. This action is instituted in accordance with and to
23 remedy Defendant's violations of the Federal Fair Debt Collection
24 Practices Act, 15 U.S.C § 1692 et seq. (hereinafter "FDCPA"), and
25 of related state law obligations brought as supplemental claims
26 hereto.
27
28

1 3. In March, 2011, Defendant initiated a campaign of
2 abusive, unfair, unreasonable, and unlawful debt collection
3 activity directed against Plaintiff in Las Vegas, Nevada.

4 4. As a result of these and other violations of law,
5 Plaintiff seeks hereby to recover actual and statutory damages
6 together with reasonable attorney's fees and costs.

7
8 PARTIES

9 5. Plaintiff, DOUGLAS KURDZIEL, is a natural person who
10 resides in Las Vegas, Nevada, and is a "consumer" as defined by 15
11 U.S.C. Section 1692a(3) and allegedly owes a "debt" as defined by
12 15 U.S.C. Section 1692a(5).

13 6. Defendant, Cavalry Portfolio Services, LLC, is a foreign
14 Limited-Liability Company, the principal purpose of whose business
15 is the collection of debts, operating a debt collection agency from
16 its principal place of business in Valhalla, NY, and regularly
17 collects or attempts to collect debts owed or due or asserted to be
18 owed or due another, and is a "debt collector" as defined by 15
19 U.S.C. Section 1692a(6).

20
21 FACTUAL ALLEGATIONS

22 7. Plaintiff(s) repeat, reallege and assert all factual
23 allegations contained in the preliminary statement to this
24 Complaint and reassert them as incorporated in full herein.

25 8. Plaintiff is a victim of theft of identity.

26 9. Plaintiff is a 58-year- old veteran attorney.

27 10. Plaintiff was dunned by Defendant on March 3, 2011,
28 regarding an account attributed to GE Money Bank (Exhibit 1).

1 11. On April 5, 2011, Plaintiff wrote Defendant advising that
2 he was a victim of theft of identity (Exhibit 2).

3 12. Exhibit 2 includes Defendant's letter as well as prior
4 correspondence to other collectors which had also been assigned
5 fraudulent debt.

6 13. Exhibit 2 also contains Plaintiff's August 6, 2010, Las
7 Vegas Metro Police Department Incident Report which described the
8 theft in detail.

9 14. Exhibit 2 also contains Plaintiff's Declaration of
10 Unauthorized Use and Sears' resolution of fraud charges.

11 15. In his April 5, 2011, letter Plaintiff advised Defendant
12 of its potential liability under the FDCPA.

13 16. Defendant received Exhibit 2 on April 8, 2011 (Exhibit
14 3).

15 17. An excerpt from Defendant's May 31, 2011, Trans Union
16 profile is attached as Exhibit 4.

17 18. Exhibit 4 reflects Defendant's continued reporting of the
18 GE Money Bank account as a \$3,000.00 active collection.

19 19. Defendant's continued reporting is in violation of FDCPA
20 §§ 1692e, 1692e(2)(A), 1692e(8) and 1692e(10).

21 20. The foregoing acts and omissions of Defendant were
22 undertaken by it willfully, maliciously, and intentionally,
23 knowingly, and/or in gross or reckless disregard of the rights of
24 Plaintiff.

25 21. Indeed, the foregoing acts and omissions of Defendant
26 were undertaken by it indiscriminately and persistently, as part of
27 its regular and routine debt collection efforts, and without regard
28 to or consideration of the identity or rights of Plaintiff.

1 22. As a proximate result of the foregoing acts and omissions
2 of Defendant, Plaintiff has suffered actual damages and injury,
3 including, but not limited to, stress, humiliation, mental anguish
4 and suffering, and emotional distress, for which Plaintiff should
5 be compensated in an amount to be proven at trial.

6 23. As a result of the foregoing acts and omissions of
7 Defendant, and in order to punish Defendant for its outrageous and
8 malicious conduct, as well as to deter it from committing similar
9 acts in the future as part of its debt collection efforts,
10 Plaintiff is entitled to recover punitive damages in an amount to
11 be proven at trial.

12
13 CAUSES OF ACTION

14 COUNT I

15 24. The foregoing acts and omissions of Defendant constitute
16 violations of the FDCPA, including, but not limited to, Sections
17 1692d, 1692e, 1692f and 1692g.

18 25. Plaintiff is entitled to recover statutory damages,
19 actual damages, reasonable attorney's fees, and costs.

20
21 COUNT II

22 26. The foregoing acts and omissions constitute unreasonable
23 debt collection practices in violation of the doctrine of Invasion
24 of Privacy. *Kuhn v. Account Control Technology, Inc.*, 865 F. Supp.
25 1443, 1448-49 (D. Nev. 1994); *Pittman v. J. J. Mac Intyre Co. of*
26 *Nevada, Inc.*, 969 F. Supp. 609, 613-14 (D. of Nev. 1997).

27 27. Plaintiff is entitled to recover actual damages as well
28 as punitive damages in an amount to be proven at trial.

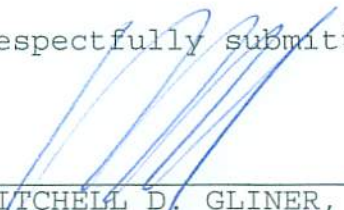
JURY DEMANDED

Plaintiff hereby demands trial by a jury on all issues so triable.

WHEREFORE, Plaintiff prays that this Honorable Court grant the following relief:

1. Award actual damages.
2. Award punitive damages.
3. Award statutory damages of \$1,000 pursuant to 15 U.S.C. § 1692k.
4. Award reasonable attorney fees.
5. Award costs.
6. Grant such other and further relief as it deems just and proper.

Respectfully submitted,



MITCHELL D. GLINER, ESQ.
Nevada Bar #003419
3017 West Charleston Boulevard
Suite 95
Las Vegas, NV 89102
Attorney for Plaintiff

PO Box 1017
Hawthorne, NY 10532
8 8 00002305 823276



Phone: (800) 501-0909

www.cavalryportfolioservices.com



MARCH 03, 2011



ROBERT MURDZIEL
9233 JADECREST DR
LAS VEGAS, NV 89134-6056

RE: Original Institution: GE Money Bank / Mervyns
Original Account No.: 6045893290130917
Cavalry Reference No.: 14031628
Balance Due: \$2,966.02

Dear ROBERT MURDZIEL:

This letter serves as notice that the above-referenced account has been purchased by Cavalry SPV I, LLC and referred to Cavalry Portfolio Services, LLC for collection.

It is important that you:

- Contact us to arrange repayment terms (however, see your validation rights below).
- Forward all future payments to the above address in order to ensure proper credit and avoid delays in payment posting.

Unless you notify this office within (30) days after the receipt of this letter that you dispute the validity of the debt or any portion thereof, this office will assume the debt is valid.

If you notify this office in writing within (30) days after receipt of this letter that you dispute all or a portion of the debt, this office will obtain verification of the debt or a copy of a judgment and mail you a copy of such judgment or verification.

If you request, in writing, within thirty (30) days of receiving this notice, Cavalry will provide you with the name and address of the original creditor.

If you have any questions or would like to discuss payment solutions you may call me directly at (866) 884-7685.

This communication is from a debt collector. This is an attempt to collect a debt and any information obtained will be used for that purpose.

Sincerely,

Melissa Kindt

Cavalry Portfolio Services, LLC

"See Reverse Side for Important Information Concerning Your Rights"

EXHIBIT /

R. Douglas Kurdziel

Direct T 702.415.2941 F 702.878.9995

rkurdziel@armstrongteasdale.com

MISSOURI KANSAS ILLINOIS NEVADA SHANGHAI

April 5, 2011

Calvary Portfolio Services, LLC.
Attention: Melissa Kindt
P.O. Box 1017
Hawthorne, N.Y. 10532

Re: Account No. - XXXXXXXXXXXX0917
Your Client - GE Capital/Mervyns
Original Account No.: 6045893290130917
Your File No. - 14031628

Dear Ms. Kindt:

I am in receipt of your collections letter dated March 3, 2011 sent to a Robert Murdziel. Please be advised that I dispute all of the alleged claims and money due and owing. As I have explained to numerous persons attempting to collect his alleged debt from me, Robert Murdziel does not reside at my address. I do not know Robert Murdziel. As I have explained countless times before, my name is Robert Douglas Kurdziel. I have lived at 9233 Jadecrest Drive, Las Vegas, Nevada since approximately 1993 when my wife and I purchased our home. I did live on Sun Rose Drive, Las Vegas, Nevada between 1992 -1993 while my home was being built.

I am the victim of an identity theft. My various communications with numerous parties who have attempted to collect Mr. Murdziel's debt have indicated to me that in fact my social security number and my date of birth were given when Mervyns issued its credit card to Mr. Murdziel. Robert Murdziel is obviously a fictitious name. I have no idea who made the alleged charges. I do know, however, who did not apply for this card or make these alleged charges: Robert Douglas Kurdziel or his family. I have a very distinctive signature - although I have asked, I have never received a copy of the signed credit card application or the actual credit card vouchers that were signed when Mr. Murdziel made his purchase(s) with his Mervyns credit card.

I am attaching my last correspondence to the prior debt collector for your review and education. Please do not attempt to contact me at my home, on my cell or at my office again regarding the collection of this debt. I will consider it a bad faith collection effort and violation of the Fair Debt Collections Act should you persist. Please be advised that any future inquiries need to be sent to my attorney, Mitchell D. Gliner, Esq., 3017 West Charleston Boulevard, #95, Las Vegas, Nevada, 89102, (702) 870-8700. Please be advised that I intend to avail myself of all legal protections and remedies should you or your company persist in attempting to collect this debt from me, as I am a victim of an identity theft and not the debtor.

Sincerely,


R. Douglas Kurdziel, Esq.

RDK/jle

EXHIBIT 2

R. Douglas Kurdziel

Direct T702.415.2941 F702.878.9995

rkurdziel@armstrongteasdale.com

MISSOURI KANSAS ILLINOIS NEVADA SHANGHAI

January 18, 2011

Patebaude & Felix, A.P.C.
Attention: Westly U. Villanueva, Esq.
1771 East Flamingo Road, Ste. 112A
Las Vegas, Nevada 89119

Re: Account No. - XXXXXXXXXXXX0917
Your Client - GE Capital
Your File No. - 10-206750

Dear Mr. Villanueva:

I am in receipt of your collections letter dated January 11, 2011 sent to a Robert Murdziel. Please be advised that I dispute all of the alleged claims and money due and owing. As I have explained to numerous persons attempting to collect his alleged debt from me, Robert Murdziel does not reside at my address. I do not know Robert Murdziel. As I have explained countless times before, my name is Robert Douglas Kurdziel. I have lived at 9233 Jadecrest Drive, Las Vegas, Nevada since approximately 1993 when my wife and I purchased our home. I did live on Sun Rose Drive, Las Vegas, Nevada between 1992 -1993 while my home was being built.

I am the victim of an identity theft. My various communications with numerous parties who have attempted to collect Mr. Murdziel's debt have indicated to me that in fact my social security number and my date of birth were given when Mervins issued its credit card to Mr. Murdziel. Robert Murdziel is obviously a fictitious name. I have no idea who made the alleged charges. I do know, however, who did not apply for this card or make these alleged charges: Robert Douglas Kurdziel or his family. I have a very distinctive signature - although I have asked, I have never received a copy of the signed credit card application or the actual credit card voucher that is signed when something is purchased with a credit card at a store.

I am attaching my last correspondence to the prior debt collector for your review and education. Please do not attempt to contact me at my home, on my cell or at my office again regarding the collection of this debt. I will consider it a bad faith collection effort and violation of the Fair Debt Collections Act should you persist. I also find it deplorable that somebody from your office called both my cell phone and home phone this past Saturday morning between 8:17 and 8:19 am. Please be advised that I intend to avail myself of all legal protections and remedies should you or your law firm persist in attempting to collect this debt from me, as I am a victim of an identity theft and not the debtor.

Sincerely,



R. Douglas Kurdziel, Esq.

RDK/jle

R. Douglas Kurdziel
Direct T 702.415.2941 F 702.878.9995
rkurdziel@armstrongteasdale.com

MISSOURI KANSAS ILLINOIS NEVADA SHANGHAI

August 6, 2010

VIA U.S. POST & FACSIMILE

Phillips & Cohen
Attention: Tillman Goodwin
1002 Justison Street
Wilmington, Delaware 19801
Fax No. 866.504.9784

Re: Collection Account for Robert Murdziel- 9233 Jadecrest Drive, Las Vegas, Nevada

Dear Sir:

I write this correspondence in response to our telephone communication earlier this morning. Attached please find a copy of the police incident report - no. LLV100806001512, you requested. In addition, I enclosed correspondence from December 9, 2009 to NCO Financial, August 20, 2008 to CAC Financial, April 29, 2008 to Mervyn's Customer Service and September 20, 2007 to Redline Recovery Services, LLC. In addition, I enclose the Declaration Of Unauthorized Use I submitted to Sears, correspondence dated January 13, 2007 from Sears indicating it had initiated an investigation and correspondence from Sears dated January 23, 2007 indicating that they had completed their investigation and that all charges on the credit card were removed. You will please note the unbelievable coincidence that a Robert D. Murdziel also opened up the subject Mervyn's card on or about December 2005? Although you refused to listen because you have already decided that I'm not telling the truth, I will bet that if either you or the attorney who you are going to engage to sue me researches the original applications you will find that both cards listed 9236 Sun Rose Avenue, Las Vegas, Nevada as the applicants place of residence. This is an address that I rented between 1992 and 1993 while my current residence for the past 17 years was being built.

Your supervisor indicated to me that two payments had been made on this card allegedly by me. I do not believe I made any such payments. When I asked to see copies of the checks that were written to allegedly pay down the debt so I could verify signatures, account numbers, banks, etc. she indicated to me that you are merely a collection agency and did not have that type of information in your file. This raises a very big concern. If you only have limited information in your file about this debt, it perplexes me how it is that you are able to definitively state that I am responsible for the alleged debt. On a side note, I'm not sure what law school you went to but the one I went to vehemently taught that you are innocent until proven guilty. It is also my experience that the Plaintiff has the burden of proof contrary to your assertion that I had to prove

August 6, 2010
Page 2

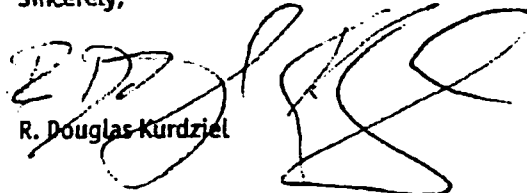
that I did not open the credit card or make any charges on it. I know this is a small technical point, but it is certainly an interesting one from a legal perspective.

I once again request the following information on this debt: 1) Please provide me with the original application for the subject credit card; 2) please provide me with any and all signed credit card payment slips that were allegedly signed by me; 3) please provide me with a list of items that I allegedly purchased on the subject credit card; 4) please provide me with all Mervyn's invoices allegedly sent to me since the debt accrued; 5) please provide me with any and all correspondence in your possession or control wherein an attempt was made to collect this debt from me; and 6) please provide me with copies of any checks, vouchers or other proof of payment that your supervisor referred to in our conversation this morning.

Pursuant to your supervisor's demand, I am making the following request in writing: Please ensure that you contact any and all credit agencies you have reported this debt to that you have notified I am challenging the alleged charges reflected on the card and do not believe I owe this debt. Pursuant to the Fair Debt Collections Act, I specifically request that you or anybody else affiliated with your company contact me by phone either at work, on my cell or at home. It will be more productive if you have your counsel contact me by mail or e-mail so that perhaps we can have an intelligent conversation about resolving this unfortunate event.

One final note needs to be addressed. Be advised I take great offense to your implication that I am a liar because you believe I should have filed a police report and did not. Even more offensive is your suggestion, which was parroted by your supervisor, that in all likelihood it was somebody close to me that had the card issued. I took this to mean that you were referring to my wife and two children. Sir, this is simply bad form.

Sincerely,



R. Douglas Kurdziel

RDK/jle

Printed by: R3387B
 Printed date/time: 06/10 10:53

Incident Report

Page 1 of 3

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
 400 E STEWART
 LAS VEGAS, NEVADA 89101
 (702) 838-3111

Incident Number: LLV100806001512

Incident Summary

Incident Type:	Report Type: STATION INCIDENT REI
Inc Occurred Address: UNK LAS VEGAS AREA LAS VEGAS, NV	Section/Beat: V2/V2
Inc Occurred Start: 07/16/2007 00:00	Report Taken: 08/08/2010 10:15
Inc Occurred End:	Substance: U
Domestic: N	Gang Related: U
Contact Nature:	Reported Date/Time:
Reporting Officer: BACCUS, R 5367	Primary Assigned Officer:
Case Status: OPEN	Disposition Date:
Disposition:	

Offenses

Statute Code: IDEN205.463 Enhancers:
 Statute Desc: OBTAIN & USE PERSONAL IDENTIFYING INFO OF ANOTHER PERSON
 Counts: 1 Statute Severity: FELONY

Persons Involved

Offense: 0001	MNI: 9134444	Can ID Suspect: No
Victim Association: VICTIM	Contact Date/Time:	
Name: KUDZIEL, ROBERT DOUGLAS	DOB: 08/11/1952	Age: 54 - 54 Sex: MALE
Height: 5' 3" - 5' 5"	Weight: 235 - 235 lbs	Race: WHITE/CAUCASIAN
Address: 8233 JADECREST DR LAS VEGAS, NEVADA 89134	Eye Color: HAZEL	Hair Color: GRAY OR PARTIAL
Phone Type 1: RESIDENCE/HOM Phone 1: (702) 228-1659	Ext 1:	Section/Beat:
Phone Type 2: BUSINESS/WORK Phone 2: (702) 678-0070	Ext 2:	
Occupation: ATTORNEY	Employer/School: ARMSTRONG TEASDALE LLC	

The Use and Dissemination of this
 Record is Regulated by Law. Secondary
 Dissemination of any kind is Prohibited
 and could subject the offender to Criminal
 and Civil Liability.

This Information Released To:

By: *KUDZIEL, ROBERT*
 Date: *08/08/10*
 Las Vegas Metro Police Dept.

Printed by: R9357B
 Printed date/time: 8/5/10 10:53

Incident Report

Page 2 of 3

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
 400 E STEWART
 LAS VEGAS, NEVADA 89101
 (702) 828-3111

Incident Number: LLV100806001512

Modus Operandi

Against Persons: Y
 Against Property: N
 Occupied: Y
 General Premise 1: RETAIL BUSINESS
 General Premise 2:
 Specific Premise:
 Surrounding Area 1:
 Surrounding Area 2:
 Surrounding Area 3:
 Relationship to Suspect 1: UNKNOWN
 Relationship to Suspect 2:
 Weapon Type 1:
 Automatic: N
 Weapon Type 2:
 Automatic: N
 Weapon Type 3:
 Automatic: N

Crime Against Property

of Premises Entered:

Entry Point:

Exit Point:

Entry Loc 1:

Exit Loc 1:

Entry Loc 2:

Exit Loc 2:

Entry Method 1:

Exit Method 1:

Entry Method 2:

Exit Method 2:

Entry Tool 1:

Exit Tool 1:

Entry Tool 2:

Exit Tool 2:

Vehicle Entry:

Safe Entry:

Suspect Action 1:

Suspect Action 2:

Suspect Action 3:

Suspect Action 4:

Suspect Action 5:

Additional Factor 1:

Additional Factor 2:

Additional Factor 3:

Additional Factor 4:

Additional Factor 5:

Security Type:

Victim Location:

Electronic Locks: N

Video Surveillance: N

Maid:

Inspectees:

Crime Against Persons

Pre-Incident Contact 1:

Pre-Incident Contact 2:

Pre-Incident Contact 3:

Victim Condition 1:

Victim Condition 2:

Victim Condition 3:

Victim Condition 4:

Victim Condition 5:

Suspect Solicited 1:

Suspect Solicited 2:

Suspect Pretended to Be:

Suspect Action 1:

Suspect Action 2:

Suspect Action 3:

Suspect Action 4:

Suspect Action 5:

Sex Crime 1:

Sex Crime 2:

Sex Crime 3:

Sex Crime 4:

Sex Crime 5:

Vehicle Involvement 1:

Vehicle Involvement 2:

OBTAINED & USED PERSONAL INFORM

Printed by: R3367B
Printed date/time: 8/8/10 10:53

Incident Report

Page 3 of 3

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
400 E STEWART
LAS VEGAS, NEVADA 89101
(702) 828-3111

Incident Number: LLV100806001812

Narratives

ENTERED DATE/TIME: 8/8/2010 10:30:41
NARRATIVE TYPE: INCIDENT CRIME REPORT
SUBJECT: OBTAIN/USE PERSONAL IDENTIFYING INFORMATION OF ANOTHER
AUTHOR: BACCUS, R 9387

THE VICTIM CAME INTO CENTRAL RECORDS AT 1015 HRS ON 08/08/10. THE VICTIM SAYS THAT HE RECEIVED A LETTER FROM REDLINE RECOVERY SERVICES, LLC COLLECTION AGENCY DATED 07/16 /2007 REFERENCING A CREDIT CARD BALANCE OF \$1,418.61 ISSUED BY GE CAPITAL - MERVYN'S - LVNV FUNDDING LLC. THE NAME ON THE CREDITOR'S NOTICE IS ONE LETTER DIFFERENT THAN HIS OWN. THE VICTIM HAS BEEN IN CONTACT WITH VARIOUS CREDIT AGENCIES REFERENCING THIS BILL AS THE ACCOUNT HAS CHANGED HANDS. MOST RECENTLY, THE VICTIM SAYS HE RECIEVED A VOICEMAIL MESSAGE ABOUT THIS ACCOUNT ON 08/05/10. AFTER SPEAKING WITH THE COLLECTION AGENCY, HE HAS COME TO BELIEVE THAT WHOMEVER OPENED THE ACCOUNT USED HIS NAME, DOB, AND SOCIAL SECURITY NUMBER.

THE VICTIM SAYS THAT HE WAS THE VICTIM OF A SIMILAR INCIDENT REGARDING A BILL FROM SEARS. THE NAME OF THAT BILL'S WOULD-BE RECIPIENT WAS ALSO SLIGHTLY DIFFERENT, BUT THE OTHER PERSONAL IDENTIFIERS WERE EXACTLY HIS OWN. BOTH OF THESE INCIDENTS APPEAR ON THE CREDIT REPORT THE VICTIM MADE AVAILABLE AT THE TIME OF REPORT ENTRY. THE SEARS DEBT WAS RESOLVED WITH THAT COLLECTION AGENCY, AND THE VICTIM DID NOT REPORT IT TO LVMPD.

THE VICTIM SAYS THAT HE HAS NOT HAD A MERVYN'S CARD SINCE APPROXIMATELY 1976 OR 1978. THE VICTIM SAYS THAT HE DID NOT ACCRUE THIS BILL.

THE VICTIM ADDS THAT SOMETIME IN 2005 OR 2006 HE DID LOSE HIS WALLET AND ALL OF ITS CONTENTS-- TO INCLUDE HIS DRIVER'S LICENSE AND CREDIT CARDS. THE VICTIM DAYS THAT IN AN EARLIER CONVERSATION REGARDING THE MERVYN'S DEBT, HE BELIEVES HE WAS ADVISED BY AN EMPLOYEE THAT THE CARD AND THE DEBT WHEN INCURRED SOMETIME IN 2006.

THE VICTIM SAYS THAT HE NEVER GAVE ANYONE PERMISSION TO OPEN A MERYVN'S CREDIT CARD ACCOUNT UNDER HIS IDENTITY OR ON HIS BEHALF.

Page 1 of 1

VOLUNTARY STATEMENT

100806-1517

Special Crime		Date Obtained		Time Obtained	
Obtain / USE PERSONAL INFO.		07/16/2007			
Location of Occurrence		Investigator		Circumstances	
UNK LV Area		V2		<input checked="" type="checkbox"/> <input type="checkbox"/>	

Your Name (Last, First, Middle)		Date of Birth		Date of Statement	
Robert Douglas Kurdziel		8/11/52			
Age	Sex	Height	Weight	Hair	Eyes
37	M	6'3"	240	Grey	Blue
Business Address		Business Phone		Business Fax	
9233 Jadenest Drive		702 228-1659			
Home Address		Home Phone		Home Fax	
Las Vegas, NV 89134		702 678-5070			
Employer		Occupation		Education	
Armstrong Trucking		Attorney		High School	
I have read this statement and I affirm to the truth and accuracy of the facts contained herein. This statement was completed at (location) <u>400 Stewart Plaza Desk</u>					

some time in spring of 2007 I received a bill from LVAC Funding LLC seeking payment for charges on a Mercantile card issued to a Robert Kurdziel. At about this same time I had also discovered that SEARS had issued a credit card to a Robert Kurdziel. A Sears was also trying to collect a past due debt approval owed by a Mr. Kurdziel. I was requested by SEARS to make a theft claim which I did and after their internal investigation they determined somebody named Kurdziel opened a card with my SSN and DOB.

I have been attempting to correct the various collection agencies that have been contacting me about the Mercantile charges to no avail. Everytime I think the situation is resolved a new collection agency re-initiate collection attempts.

This morning I contacted that latest collection company. They kept implying that I was a liar because I had never been filed a police report claiming my identity was stolen & credit cards had been opened in a name similar to mine but with my SSN & DOB.

I HAVE READ THIS STATEMENT AND I AFFIRM TO THE TRUTH AND ACCURACY OF THE FACTS CONTAINED HEREIN. THIS STATEMENT WAS COMPLETED AT (LOCATION) 400 Stewart Plaza Desk

DATE 8th DAY OF August " 10:15 P.M. " 2007

R9387B

RDJ

R. Douglas Kurdziel
(702) 415-2941
(702) 878-9995 (Fax)
rkurdziel@armstrongteasdale.com

ARMSTRONGTEASDALE LLP

ILLINOIS

KANSAS

MISSOURI

NEVADA

SHANGHAI

ATTORNEYS AT LAW

December 9, 2009

NCO Financial Systems
P.O. Box 15740
Wilmington, DE 19850-5740

NCO Financial Systems
2725 East Desert Inn Road, Ste 250
Las Vegas, NV 89121

Re: Creditor's Account # 6045893290130917 - Internal Account # 9W8QJ5

To Whom It May Concern:

Please be advised that I am still contesting all alleged charges, as I have been since September 20, 2007. I have attached three letters that were previously written to various entities, including Mervyns, challenging its attempts to collect this debt. I am not Robert Murdziel, although the person that had the subject credit issued in this name appears to have access to my social security number and birth date information. As the attached letters clearly set forth, I am the victim of an identity theft. I thought this matter was closed in August 2008 when I was dealing with Elaine from CAC. Apparently, I was mistaken.

It is my understanding that you will provide me with verification of the debt incurred. I am not in a position to dispute that somebody charged the claimed amount on a Mervyns' credit card. I am disputing, however, that the person signing the credit card application that generated the credit card in question was me, that I authorized Mervyns to issue the subject credit card in my name or in the name of Robert Murdziel, and that I ever used the subject credit card to purchase anything.

To facilitate my understanding of the issues and Mervyns' claim that I owe it a debt, please provide me with a signed copy of the credit card application that generated the credit card in question, any and all signed authorizations granting Mervyns the right to charge the claimed amounts to the subject credit card and all past correspondence to Robert Murdziel attempting to collect the outstanding debt.

I once again request that Mervyns stop attempting to collect this wrongfully claimed debt from me and to clear any negative credit references that may still exist on the various credit reporting agency rating systems. There is no doubt that everybody has had sufficient notice of

NCO Financial Systems
December 9, 2009
Page 2

ARMSTRONG TEASDALE LLP

my identity theft and some other party's felonious use of the subject credit card that Mervyns wrongfully issued to Robert Murdzial given my efforts over the past two years to inform Mervyns and its collection agencies of the true facts. I will consider any further attempts to collect on this wrongful claim as an act of harassment and a violation of the Fair Debt and Collections Act. Please be advised that I will pursue all remedies legally available to me to stop this harassment.

Sincerely,


R. Douglas Kurdzial

RDK/jle

Encl. - Letter dated 08.20.08 to Elaine at CAC Financial
Letter dated 04.29.08 to Mervyns Customer Service
Letter dated 09.20.07 to Redline Recovery Services, LLC

WILLIAM E. FLORIS JR.
JOSEPH W. BROWN
ALBERT F. PARRIS
JOHN P. SANDS, III
WILLIAM A. BARNES
BARRY R. GORDON
MICHAEL S. SPENCER
MICHAEL F. JUST
JAMES L. BROWN
DONALD H. BROWN
JOHN A. LEONARD
NORMAN S. SCHLESINGER
JAMES L. BROWN
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EDWARD M. BROWN
TAMARA BROWN
ELIZABETH M. BROWN
WILLIAM BROWN

JONES VARGAS

ATTORNEYS AT LAW
3725 HOWARD HUGHES PARKWAY
THIRD FLOOR SOUTH
LAS VEGAS, NEVADA 89169

TEL (702) 399-3300 FAX (702) 737-1100

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Telephone: 702-337-1100
Fax: 702-337-1100
WWW.JONESVARGAS.COM

April 29, 2008

Mervyn's Customer Service
22301 Foothill Boulevard
Hayward, California 94541-2709

Re: *Unauthorized Credit Card*

To Whom It May Concern:

Please be advised that I have recently pulled my Experian Credit report. I discovered that there is a negative credit report in the amount of \$1,724 listed by your company. It was my understanding that I had resolved this matter after dealing with your credit collector, Red Line Recovery Services, LLC, in September 2007. I am attaching that correspondence for your review. As I informed Redline, and I am informing you, I am not Robert Murdzial and I have not incurred any debt at Mervyn's in the past 20 years.

I have no recollection of shopping in a Mervyn's in the past twenty (20) years. Moreover, the valid credit card that was issued to me (more than twenty-five [25] years ago) was issued under my correct name and had a different account number and has not been used in more than 20 years. I am further informed by my wife that neither she nor my two children, who have not resided in our home since 2005, have used my Mervyn's credit card.

I explained to Redline's out-sourced telephone persons that I am apparently a victim of identity theft. The person(s) to whom Mervyn's issued a credit card (without my authorization) undoubtedly obtained my correct date of birth and Social Security number, but has not spelled my name correctly and used an address at which I have not lived since 1992. It is my best guess that Mervyn's allowed someone, other than myself, to sign up for a credit card on the internet and issued the card to that person.

I have attempted to inform your out-sourced customer service persons, when I was referred to them by your Hayward customer service location, that I am challenging this bill and refuse to pay it. Unfortunately, the person I was put in contact with kept insisting that there was too much static on the line and that I should call back. After three attempts, I gave up. On a side note, I would strongly suggest that you bring your customer service back to the United States where the phone system does not have as much static.

220 WEST LEXINGTON STREET, TWELFTH FLOOR, SUITE 2000, LOS ANGELES, CALIFORNIA 90012 TEL (213) 778-6900 FAX (213) 778-6177
*LAWYERS IN CALIFORNIA ONLY

Mervyns
April 28, 2008
Page 2

Mervyns Customer Service
April 25, 2008
Page two

Be advised that this alleged debt is showing up on at least one credit report as an outstanding unpaid bill and is negatively affecting my credit rating. I strongly suggest that you investigate the origin of this debt, and have all negative references removed from all the credit reporting agencies to whom Mervyns reported it.

If you do not resolve this problem that you created, I will take all legal action necessary to restore my good credit and to obtain compensation for any damages that Mervyn's has caused. In addition, as you are well aware, both the Fair Debt Collections Act and the Credit Reporting Act provide that any violation of either or both of these acts entitles the wronged party to both punitive damages and attorney's fees in addition to compensatory damages. I will seek all remedies entitled to me.

Please have your counsel communicate directly to me in writing at the above address, should you have any further questions or concerns about this matter. I also request that you have your agents and or representatives stop calling my home and sending letters addressed to Robert Murdzial to my home address.

Sincerely,

JONES VARGAS

R. Douglas Kiedziel

RDK:mtf
Enc: Letter to Redline Recovery Services, LLC

GERBERT H. JONES
 MELVIN S. BLUM, JR.
 JACQUES W. BORDEN
 ALBERT F. JAMES
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 MICHAEL Z. BOWEN-SMITH

LEONA P. BOWEN-SMITH
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 MICHAEL X. BOWEN-SMITH
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 MICHAEL X. BOWEN-SMITH
 MICHAEL Y. BOWEN-SMITH
 MICHAEL Z. BOWEN-SMITH

RONALD A. BOWEN-SMITH
 MICHAEL A. BOWEN-SMITH

September 20, 2007

Via U. S. Mail, Regular and Return Receipt Requested

Redline Recovery Services, LLC
 1145 Sanctuary Parkway, Suite 350
 Alpharetta, Georgia 30004-4756

Re: Account ID: N2314265
 Reference: 6045893290130917

To Whom It may Concern:

Please be advised that I am in receipt of correspondence dated September 9, 2007 to Robert Murdzial wherein Redline Recovery Services is attempting to collect on an outstanding Mervyn's credit card bill. As I have informed your out-sourced persons who answer the telephones on numerous occasions since June of this year, I am not Robert Murdzial and I have not incurred the debt that you are referring to in your correspondence. I have no recollection of shopping in a Mervyn's in the past twenty (20) years. Moreover, the valid credit card that was issued to me (more than twenty-five [25] years ago) was issued under my correct name and had a different account number. I have been informed by my wife that to the best of her recollection, neither she nor my children, who have not resided in our home since 2005, have used a credit card in Mervyn's.

As I explained to your out-sourced telephone persons, I believe that I am a victim of identify theft. The person(s) to whom Mervyn's issued a credit card (without my authorization) undoubtedly obtained my correct date of birth and Social Security number, but has not spelled my name correctly and used an address that I have not lived at since 1992. As I have attempted to inform your out-sourced telephone persons and Mervyn's, I am challenging this bill and refuse to pay it.

Please be advised that if this alleged debt shows up on any credit report as an outstanding unpaid bill or affects my credit rating negatively in any way, I will take any and all legal action necessary to restore my good credit and to obtain compensation for damages that your agency and/or Mervyn's has caused. In addition, as you are well aware, both the Fair Debt Collections Act and the Credit Reporting Act provide that any violation of either or both acts entitles the wronged party to both punitive damages and attorney's fees in addition to compensatory damages.

SEND OFFICE
 100 WEST LIBERTY STREET, TWELFTH FLOOR, SUITE 1200, ALPHARETTA, GA 30004 TEL (770) 706-5000 FAX (770) 706-1177
 CLOSURES IN ALPHARETTA ONLY

Redline Recovery Services, LLC

September 20, 2007

Page 2

If you have any further questions or concerns about this matter please have your counsel communicate directly with me at the above address.

Sincerely,

JONES VARGAS

A handwritten signature in black ink, appearing to read "RDK", is written over the typed name "R. Douglas Kurdzie".

RDK:lmk

DECLARATION OF UNAUTHORIZED USE



0031200632600091001

Please return this declaration only if you are reporting unauthorized charges.

I, R Douglas Kurdziel, the undersigned, do hereby state and declare as follows:

1. This declaration concerns the Sears account number: 5049-9401-7970-8788
2. Neither I, nor anyone authorized by me, nor anyone with my knowledge or consent received or expect to receive any benefits or value as a result of this transaction(s).
3. My card was (circle one); (Continue on the back of this form if additional space is needed.)
 - A. Lost/ Stolen. Date: _____ Location: _____ If stolen, police report filed? Y/N
 - If yes, Case #: _____ City: _____ Precinct: _____
 - Phone number: _____ Detective Name: _____

☒ B. Never Received☐ C. All cards were in my possession at the time of fraudulent use.

☒ D. Other (please explain): A CARD WAS ISSUED TO SOMEONE WHO HAD GAINED ACCESS TO MY SOCIAL SECURITY NUMBER AND BIRTHDATE - DID NOT SPILL NAME

4. Listed below is the name of any card that was lost/stolen/never received: correctly - used an old address I had not lived at for twelve years.

Robert D. MURDZIEL

5. I have reason to believe the following individual(s) utilized the credit card(s) described above or had access to my account number without my authorization: NO IDEA

Name(s): _____

Address: _____

City: _____ State: _____ Zip Code: _____

Reason: _____

6. The signatures set forth below are the signatures of MYSELF AND ALL AUTHORIZED USERS ON THIS ACCOUNT (continue additional authorized user signatures on the back):

Print Name

R Douglas Kurdziel
Christine Kurdziel

Signature

7. I understand that Security Services investigates alleged fraudulent or unauthorized credit card usage and may refer the same to the appropriate law enforcement agency. I agree to cooperate in any prosecution of individuals charged with fraudulent or unauthorized card usage.

Primary cardholder signature

A FALSE DECLARATION TO A FEDERALLY INSURED FINANCIAL INSTITUTION MAY BE A VIOLATION OF FEDERAL AND/OR STATE LAW.

I have examined my billing statements and have circled all transactions that are in dispute:

Send this document to:

Security Services, PO BOX 6090, Sioux Falls, SD 57117 Fax: 605-357-2113



Sears Cardmember Services
PO Box 45129
Jacksonville, FL 32232

January 13, 2007

6775

ROBERT D KURDZIEL
9233 JADECREST DR
LAS VEGAS NV 89134-6056

Account Number:
XXXX-XXXX-XXXX-8788



Dear ROBERT D KURDZIEL:

We have received the information you sent us regarding your Sears Card account.

We are presently conducting a review of your account. We will contact you with the results as soon as our investigation has been completed.

We appreciate your patience while this matter is being resolved.

Sincerely,

Security Services

This account is issued by CITibank (South Dakota), N.A.
FEDERAL REGULATIONS REQUIRE THE STATEMENT PRINTED ON THE REVERSE SIDE

0/LR/S14110/001/00/00/00/0000/00000000/F2007011300021564/6775

Sears is a registered trademark of Sears Brands, LLC



Sears Cardmember Services
PO Box 45129
Jacksonville, FL 32232

January 23, 2007

7247

ROBERT D KURDZIEL
9233 JADECREST DR
LAS VEGAS NV 89134-6056

Account Number:
XXXX-XXXX-XXXX-8768

11.01.12.13.14.15.16.17.18.19.20.21.22.23.24.25.26.27.28.29.30.31.32.33.34.35.36.37.38.39.40.41.42.43.44.45.46.47.48.49.50.51.52.53.54.55.56.57.58.59.60.61.62.63.64.65.66.67.68.69.70.71.72.73.74.75.76.77.78.79.80.81.82.83.84.85.86.87.88.89.90.91.92.93.94.95.96.97.98.99.100.101.102.103.104.105.106.107.108.109.110.111.112.113.114.115.116.117.118.119.120.121.122.123.124.125.126.127.128.129.130.131.132.133.134.135.136.137.138.139.140.141.142.143.144.145.146.147.148.149.150.151.152.153.154.155.156.157.158.159.160.161.162.163.164.165.166.167.168.169.170.171.172.173.174.175.176.177.178.179.180.181.182.183.184.185.186.187.188.189.190.191.192.193.194.195.196.197.198.199.200.201.202.203.204.205.206.207.208.209.210.211.212.213.214.215.216.217.218.219.220.221.222.223.224.225.226.227.228.229.230.231.232.233.234.235.236.237.238.239.240.241.242.243.244.245.246.247.248.249.250.251.252.253.254.255.256.257.258.259.260.261.262.263.264.265.266.267.268.269.270.271.272.273.274.275.276.277.278.279.280.281.282.283.284.285.286.287.288.289.290.291.292.293.294.295.296.297.298.299.300.301.302.303.304.305.306.307.308.309.310.311.312.313.314.315.316.317.318.319.320.321.322.323.324.325.326.327.328.329.330.331.332.333.334.335.336.337.338.339.340.341.342.343.344.345.346.347.348.349.350.351.352.353.354.355.356.357.358.359.360.361.362.363.364.365.366.367.368.369.370.371.372.373.374.375.376.377.378.379.380.381.382.383.384.385.386.387.388.389.390.391.392.393.394.395.396.397.398.399.400.401.402.403.404.405.406.407.408.409.410.411.412.413.414.415.416.417.418.419.420.421.422.423.424.425.426.427.428.429.430.431.432.433.434.435.436.437.438.439.440.441.442.443.444.445.446.447.448.449.450.451.452.453.454.455.456.457.458.459.460.461.462.463.464.465.466.467.468.469.470.471.472.473.474.475.476.477.478.479.480.481.482.483.484.485.486.487.488.489.490.491.492.493.494.495.496.497.498.499.500.501.502.503.504.505.506.507.508.509.510.511.512.513.514.515.516.517.518.519.520.521.522.523.524.525.526.527.528.529.530.531.532.533.534.535.536.537.538.539.540.541.542.543.544.545.546.547.548.549.550.551.552.553.554.555.556.557.558.559.560.561.562.563.564.565.566.567.568.569.570.571.572.573.574.575.576.577.578.579.580.581.582.583.584.585.586.587.588.589.590.591.592.593.594.595.596.597.598.599.600.601.602.603.604.605.606.607.608.609.610.611.612.613.614.615.616.617.618.619.620.621.622.623.624.625.626.627.628.629.630.631.632.633.634.635.636.637.638.639.640.641.642.643.644.645.646.647.648.649.650.651.652.653.654.655.656.657.658.659.660.661.662.663.664.665.666.667.668.669.670.671.672.673.674.675.676.677.678.679.680.681.682.683.684.685.686.687.688.689.690.691.692.693.694.695.696.697.698.699.700.701.702.703.704.705.706.707.708.709.710.711.712.713.714.715.716.717.718.719.720.721.722.723.724.725.726.727.728.729.730.731.732.733.734.735.736.737.738.739.740.741.742.743.744.745.746.747.748.749.750.751.752.753.754.755.756.757.758.759.760.761.762.763.764.765.766.767.768.769.770.771.772.773.774.775.776.777.778.779.780.781.782.783.784.785.786.787.788.789.790.791.792.793.794.795.796.797.798.799.800.801.802.803.804.805.806.807.808.809.810.811.812.813.814.815.816.817.818.819.820.821.822.823.824.825.826.827.828.829.830.831.832.833.834.835.836.837.838.839.840.841.842.843.844.845.846.847.848.849.850.851.852.853.854.855.856.857.858.859.860.861.862.863.864.865.866.867.868.869.870.871.872.873.874.875.876.877.878.879.880.881.882.883.884.885.886.887.888.889.890.891.892.893.894.895.896.897.898.899.900.901.902.903.904.905.906.907.908.909.910.911.912.913.914.915.916.917.918.919.920.921.922.923.924.925.926.927.928.929.930.931.932.933.934.935.936.937.938.939.940.941.942.943.944.945.946.947.948.949.950.951.952.953.954.955.956.957.958.959.960.961.962.963.964.965.966.967.968.969.970.971.972.973.974.975.976.977.978.979.980.981.982.983.984.985.986.987.988.989.990.991.992.993.994.995.996.997.998.999.1000.1001.1002.1003.1004.1005.1006.1007.1008.1009.1010.1011.1012.1013.1014.1015.1016.1017.1018.1019.1020.1021.1022.1023.1024.1025.1026.1027.1028.1029.1030.1031.1032.1033.1034.1035.1036.1037.1038.1039.1040.1041.1042.1043.1044

Dear ROBERT D KURDZIEL:

We have completed our investigation of unauthorized use on your Sears Card account. The disputed charges and any related fees and finance charges were removed from your account.

We look forward to providing you the best possible service.

Sincerely,

Security Services

**THIS ACCOUNT IS ISSUED BY CITIBANK (SOUTH DAKOTA), N.A.
FEDERAL REGULATIONS REQUIRE THE STATEMENT PRINTED ON THE REVERSE SIDE**

0/LR/S14104/001/00/00/00/0000/00000000/F2007012300036496/7247

EXHIBIT 3

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> ■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. 		<p>A. Signature <input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name)</p> <p>C. Date of Delivery 4/18</p> <p>D. Is delivery address different from item 1? If YES, enter delivery address below: <input type="checkbox"/> Yes <input type="checkbox"/> No</p>	
<p>1. Article Addressed to:</p> <p>Calvary Portfolio Services LLC Melissa Kindt P.O. Box 1017 Hawthorne, NY 10532</p>		<p>3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Registered <input type="checkbox"/> Insured Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	
<p>2. Article Number (Transfer from service label)</p>		<p>7008 1830 0003 4749 9803</p>	
PS Form 3811, February 2004		Domestic Return Receipt	
		102595-02-M-1540	



TransUnion.

truecredit

[your products](#) | [your account](#) | [learn](#) | [help](#) | [logout](#)
[member center](#) | [your credit](#) | [your debt](#) | [your identity](#) | [savings](#) | [your home](#) | [your car](#) | [your insurance](#) | [legal tools](#)
[credit alerts](#) | [credit reports](#) | [credit scores](#) | [trending](#)

Credit Reports

May 31, 2011



Refresh Your Report

PERSONAL INFORMATION ?

CREDIT REPORTING
AGENCY:

TransUnion.

experian

EQUIFAX

CREDIT REPORT
DATE:

05/31/2011

Add Experian and Equifax Reports NOW!

NAME:
ALSO KNOWN AS:ROBERT D. KURDZIEL
DOUGLAS D. KURDZIEL
KURDZIEL,R,DOUGLAS
RD KURDZIEL

DATE OF BIRTH:

08/1952

CURRENT ADDRESS:

9233 JADECREST DR #D
LAS VEGAS, NV 89134
05/01/1995

PREVIOUS ADDRESS:

11233 PASEO
MONTANOSO
SAN DIEGO, CA 92127
04/01/19959236 SUN ROSE AV
LAS VEGAS, NV 89134

EMPLOYER:

LAW STUDENT
12/01/1989

Consumer Statement

None Reported

Black Card
Get One Now! **GO**

Capital One
Card Offers **GO**

Gold
MasterCard **GO**

RELATED ITEMS

Printer friendly
version

Found an inaccuracy?

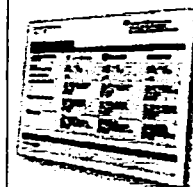
See ALL 3 credit
reports and scoresLearn more about
credit

FAQ

How long can I access
my credit reports
online?Why do I need all
three credit reports?
 >>> Debt Relief Aid. Do you Qualify? <<<

SUMMARY ?

	TransUnion	Experian	Equifax
TOTAL ACCOUNTS:	33	Add Experian and Equifax Reports NOW!	
OPEN ACCOUNTS:	6		
CLOSED ACCOUNTS:	27		
DELINQUENT:	0		
DEROGATORY:	2		
BALANCES:	69669		
PAYMENTS:	1238		
PUBLIC RECORDS:	0		
INQUIRIES (2 years):	1		

 See Your
Complete
Credit Picture

 Data From
ALL 3 Bureaus in
1 Easy-to-Read
Report

CLICK HERE



EXHIBIT 4

